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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,374	08/02/2001	Berith Porso	000500-300	3321

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EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 04/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/857,374

Applicant(s)

PORSO ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections

2. Claims 1, 6 and 7 are objected to because of the following informalities: the words “neutralisation” and “neutralised” are spelled wrong and should be “neutralization” and “neutralized”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Regarding claims 1 and 9, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
6. With respect to Claim 1: the phrase “the structure comprises at least 40% by weight superabsorbent material based on total weight of the region or in these regions in which the superabsorbent material is distributed” is indefinite. It is unclear to the examiner what “these

regions” is referring to, in what regions? Furthermore, “the regions” lacks antecedent basis in the claim, the claim never sets forth any regions where the superabsorbent is located.

7. With respect to Claim 3: The acronyms CTMP and CP are indefinite. The applicant has not set forth the meanings of these acronyms previously in the claims and therefore it is unclear what these acronyms stand for. The examiner suggests writing out the words. For examination purposes the examiner is assuming CTMP is chemical thermomechanical pulp and CP is cellulose pulp, however it should be noted that these words already have the word pulp after them, so is it reading cellulose pulp pulp.

8. With respect to Claim 3: the phrase “in addition to superabsorbent material” is indefinite. Does this mean there is additional superabsorbent material than what is claimed in Claim 1, or is this the same superabsorbent material?

9. Claim 6 recites the limitation “the wetting region” in line 6. There is insufficient antecedent basis for this limitation in the claim.

10. With respect to Claims 6 and 7: the word “conventional” is indefinite. The claim does not set forth what is actually conventional material. Do all “conventional” superabsorbents have a neutralization of 70%, or does any superabsorbent that have 70% neutralization is considered conventional? For examination purposes the examiner is considering all conventional superabsorbents (any superabsorbent which does not specify the degree of neutralization) to be 70% neutralized.

11. With respect to Claim 7: the phrase “an absorbent article of Claim 1” is indefinite. There has not been an absorbent article positively claimed in claim 1, only an absorbent structure.

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12. Claim 8 recites the limitation "the bottom" in line 1. There is insufficient antecedent basis for this limitation in the claim.

13. With respect to Claim 9: the phrase "the kind" is indefinite. It is unclear what scope this phrase encompasses. Does this actually claim the structure of Claim 1, or does it just have to be "the kind" of structure in claim 1, which can be any structure with a superabsorbent.

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claims 1-5 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Crainic (5,827,255).

16. With respect to Claims 1, 2, 4, 5 and 9: Crainic discloses the use of an absorbent structure, topsheet and backsheet (see figures 1 and 2), where the absorbent article is a sanitary napkin (column 3, lines 17-19). Crainic discloses the use of a partially neutralized superabsorbent where the degree of neutralization can be 25% (column 5, lines 33-39) and the superabsorbent can be 5-80% of the weight of the structure (column 6, lines 28-31). Crainic discloses the thickness of the structure being 3mm or below (column 12, lines 32-35).

17. With respect to Claim 3: See Column 6, line 63 to column 7, line 2.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

20. Claims 1-3, and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman et al. (5,599,335) in view of Plisehke et al. (5,977,014).

21. With respect to Claims 1, 2, 5 and 9: Goldman discloses the use of absorbent members used in sanitary napkins (column 1, lines 18-21) that have 60-100% superabsorbent (see abstract). Goldman discloses the superabsorbent can be a partially neutralized superabsorbent with a degree of neutralization of 50% (column 9, lines 48-53).

22. Goldman however, is silent to the thickness of the absorbent article. Plisehke discloses the use of a multi-layered article with the use of superabsorbent in sanitary napkins, having a thickness of 5mm or less (column 26, lines 59-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the article (which can be a

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sanitary napkin) have an overall thickness of 5mm or less, as disclosed by Plisehke, in order to provide a thin, flexible sanitary napkin (see Plisehke columns 26 and 27).

23. With respect to Claim 3: See Goldman, column 21, line 25 to column 22, line 57.

24. With respect to Claim 6: Goldman discloses the structure can have a mix of conventional (starch grafted acrylic acid) and partially neutralized polymers (column 9, lines 62-67).

Goldman then goes on to further disclose the use of different superabsorbent having different physical properties in different layers of the article (column 31, lines 25-50). The examiner considers the combination of these two disclosures to anticipate the partially neutralized polymer being in one layer (which can be called the target zone), and the conventional polymer being in a separate layer (which can be called the 2nd zone).

25. With respect to Claim 7 and 8: Goldman, as disclosed above for claim 6, fails to specifically disclose the target zone being located above the 2nd zone, or the 2nd zone being located above the target zone. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have either the target zone located above the 2nd zone, or the 2nd zone located on top of the target zone, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mitchell et al. (6,194,631) discloses the use of partially neutralized superabsorbents.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579.

The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw 
April 7, 2003


WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700